

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director

SUBJECT: Quasi Judicial Hearing: Vested Rights Determination
The Costoya Group Inc., petitioner/Carmco Inc. owner, 3500 SW 130 Avenue,

TITLE OF AGENDA ITEM: Vested Rights determination for the Vista Del Lago Plat

REPORT IN BRIEF: At its March 21, 2001 meeting, staff advised Council there were several lot-specific residential subdivision plats which met Code when platted, but were not site planned and developed before changes in the Code made the plats nonconforming with regard to minimum lot area and landscaping buffers, as indicated below. Staff brought the issue before Council in order to inquire whether Council wished make a policy decision either “vesting” or not vesting the nonconforming conditions on all of the plats, as opposed to the developer of each plat individually seeking variances, or vested rights determinations through the Town Attorney or Town Administrator. Council determined that each situation should be dealt with separately, as a policy decision. This is the first such request.

Relevant Background Information

The Vista Del Lago Plat of the subject property was approved prior to a change in the landscape code which prohibited landscape buffers from being counted towards lot area, and increased the minimum width of such buffers.

A site plan for the subject property was approved after the landscape code was changed, but was reviewed under the previous landscape code provisions because the site plan had been through final review before the amendment took effect. The site plan was resubmitted in August of 2000, three (3) years after it expired. Staff was unable to further process the site plan, as it did not meet current code provisions as identified herein.

PREVIOUS ACTIONS: On March 21, 2001, Council decided to make determinations, on an individual basis, as to whether several plats indicated on staff backup have vested rights to the lot layouts platted prior to Code changes in 1996 which created nonconformities

CONCURRENCES: none

FISCAL IMPACT: none

Has request been budgeted? no

If yes, expected cost: \$

Account Name:

If no, amount needed: \$

What account will funds be appropriated from:

Additional Comments:

Attachment(s): Staff report, plat, Future Land Use Plan Map, Zoning Map, Aerial

**Application: Vested Rights Determination
Vista Del Lago Plat**

Revisions:

Exhibit "A":

Original Report Date: 3/27/01

**TOWN OF DAVIE
Development Services Department
Planning & Zoning Division Staff
Report and Recommendation**

APPLICANT INFORMATION

Owner:

Name: Carmco Inc.
Address: 108 S. Munn Ave.
City: East Orange, New Jersey 07018
Phone: (973) 673-1441

Agent:

Name: The Costoya Group, Inc.
Address: 4960 SW 72 Ave., Ste. 310
City: Miami, FL 33155
Phone: (305) 669-3923

BACKGROUND INFORMATION

Application Requests: The applicant is requesting a vested rights determination from Council relative for the Vista Del Lago Plat relative to minimum required lot size for the R-1 District and width of required landscape buffers.

Address/Location: 3500 SW 130 Avenue, Generally located between Flamingo Road and SW 130 Avenue and on the north side of SW 36 Court.

Future Land Plan Use Designation: Residential (1 du/ac)

Zoning: R-1, Estate Dwelling District

Existing Use: Vacant land

Proposed Use: 32 Single Family Lots

Parcel Size: 37.92 gross acres (1,851,597 square feet).

Surrounding Uses:**North:** Kapok Village Est. 38 SF lots**South:** Kapok ESL Site**East:** Flamingo Road & Flamingo
Fire station**West:** Kapok ESL Site**Surrounding Land Use Designation Plan:**

Residential (1 du/ac)

Residential (1 du/ac) & Proposed Park/
Open SpaceCommunity Facility & Commercial
Recreation

Conservation

Surrounding Zoning:**North:** R-1, Estate Dwelling District**South:** RS, Recreation/Open Space**East:** Flamingo Road, Community Facility & AG, Agricultural District**West:** RS, Recreation/Open Space

ZONING HISTORY

Related Zoning History: The Town Code by definition of "Lot Area" excludes easements or rights-of-way for public or private roads, primary utility transmission lines, water management or drainage district canals from lot area calculations. The present Landscape Code, as amended by Ordinance No. 96-27, prohibits required landscape buffers from being contained within any lot line or lot(s). Application of these two code provisions would result in 30 of the 33 platted lots being substandard as to lot area, with lot areas ranging from 27,713 square feet to 34,089.05 net dry land with an average lot area of 32,317.61 square feet net dry land.

Previous Request on same property: The subject plat was recorded by Broward County on June 1, 1999, Plat Book 167, Page 8 of the Broward County records. The plat is lot specific, reflecting 33 lots as currently proposed.

Town Council approved a site development plan to construct 33 single family lots, with associated landscaping on a 37.92 gross acre parcel, on July 17, 1996, with conditions.

DEVELOPMENT PLAN DETAILS

The petitioner is proposing to construct a gated community consisting of 32 detached single family homes and tot lot area on approximately 35.72 net dry acres (1,555,963.2 square feet)/37.92 gross areas of platted property. The tot lot will be developed on Lot 1 of the plat consisting of approximately 26,089.10 square feet in lot area and would prohibit the lot from ever being developed for a single family residence.

The subdivision plat for the subject site was approved by Town Council on May 1, 1996 and site development plan was approved by Town Council on July 17, 1996 which proposed to develop a gated community with 33 single family lots ranging from 35,000 to 51,000 square feet, and a 5.64 acre lake.

Applicable Codes and Ordinances

Comprehensive Plan Considerations

Planning Area: The proposed project is within the Planning Area No. 2, which generally includes the westernmost section of the Town north of Orange Drive and south of SW 14 Street, and bound on the west by Interstate 75 and on the east by Nob Hill Road and Pine Island Road. The predominant existing and planned land use in single-family residential at a density of one dwelling unit per acre. The Broward County Landfill site, now closed, is programmed for redevelopment as a park site. The Boy Scout Camp is Located to the north of the landfill site and is also used for recreational and open space purposes. A major land holding, Imagination Farms, constitutes the last remaining dairy operation in Davie and has developed half of the site with 400 single-family residences. Several larger parcels are currently being platted, in preparation for marketing or development as estate residences and commercial projects.

Broward County Comprehensive Plan Considerations

This property falls within flexibility Zone 113. The subject site is a portion of platted property which has met the test of concurrency and is in compliance with all restrictions of the approved plat.

Staff Analysis

The Vista Del Lago Plat of the subject property was approved prior to a change in the landscape code which prohibited landscape buffers from being counted towards lot area.

A site plan for the subject property was approved after the landscape code was changed, but was reviewed under the previous landscape code provisions because the site plan had been through final review before the amendment took effect. The site plan was resubmitted in August of 2000, three (3) years after it expired. Staff was unable to further process the site plan, as it did not meet current code provisions as identified herein.

The applicant sought a vested rights determination from the Town Attorney as to whether the plat vests the non-conforming conditions shown on the plat. The Town Attorney's initial response was "that platting alone does not create vested rights." However, a final determination has not been rendered, as the Town Attorney has requested additional information to assist in the final legal opinion.

The applicant has indicated development of the site under its present site configuration with the required 35,000 square foot lots would yield a loss of nine lots of the developable 32 lots, which provides for a density of .60 dwelling units per gross acre, and represents a 27% reduction in density. Typical achievable densities within the R-1 District range from approximately .85 dwelling units per acre to 1.0 dwelling units per acre. Staff analysis

indicates a loss of four (4) lots, not nine (9), by vacating drainage easements between lots and reconfiguring the lots and easements.

In order to meet Code, the applicant would have to utilize an alternative to the lake design, which could be provided by dry retention system and/or a combination of dry retention area and a smaller lake. This alternative, requires vacation of the road and several easements, and rededication in different locations. This option may also reduce the value of the home lots, as they would be subjected to partial submersion during the rainy season and would have depressed rear yards. This alternative would be extremely cumbersome for the developer both in terms of expense and time consumption, requiring vacation of all the existing easements and rededication of easements and rights-of-way. This alternative may also require demucking the site and filling the site in excess of that which would be required with the lake alternative. Any reconfiguration of lots would require metes and bounds descriptions for each lot provided with in the subdivision.

Exhibits

Addendum, Justification Letter, Plat, Proposed Site Layout Plan, Land Use Map, Subject Site Map, and Aerial.

Prepared by: _____

Reviewed by: _____

RECORDED DATE

06-DI-99 02:19PM DR BK 29504 PG 0028

99-291787

VISTA DEL LAGO

SECTION 28, TOWNSHIP 28 SOUTH, RANGE 40 EAST, OF PALM BEACH COUNTY, FLORIDA
AS RECORDED IN PLAT BOOK 2, PAGE 17 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA

ASSOCIATED BUILDERS & CONTRACTORS
OF FLORIDA, INC.
1000 N. W. 10th Ave., Suite 1000
Fort Lauderdale, FL 33304

DEPARTMENT OF PLANNING AND ENVIRONMENTAL PROTECTION

BROWARD COUNTY PLANNING AND ENVIRONMENTAL PROTECTION

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MORTGAGE APPROVAL (I)

DESCRIPTION

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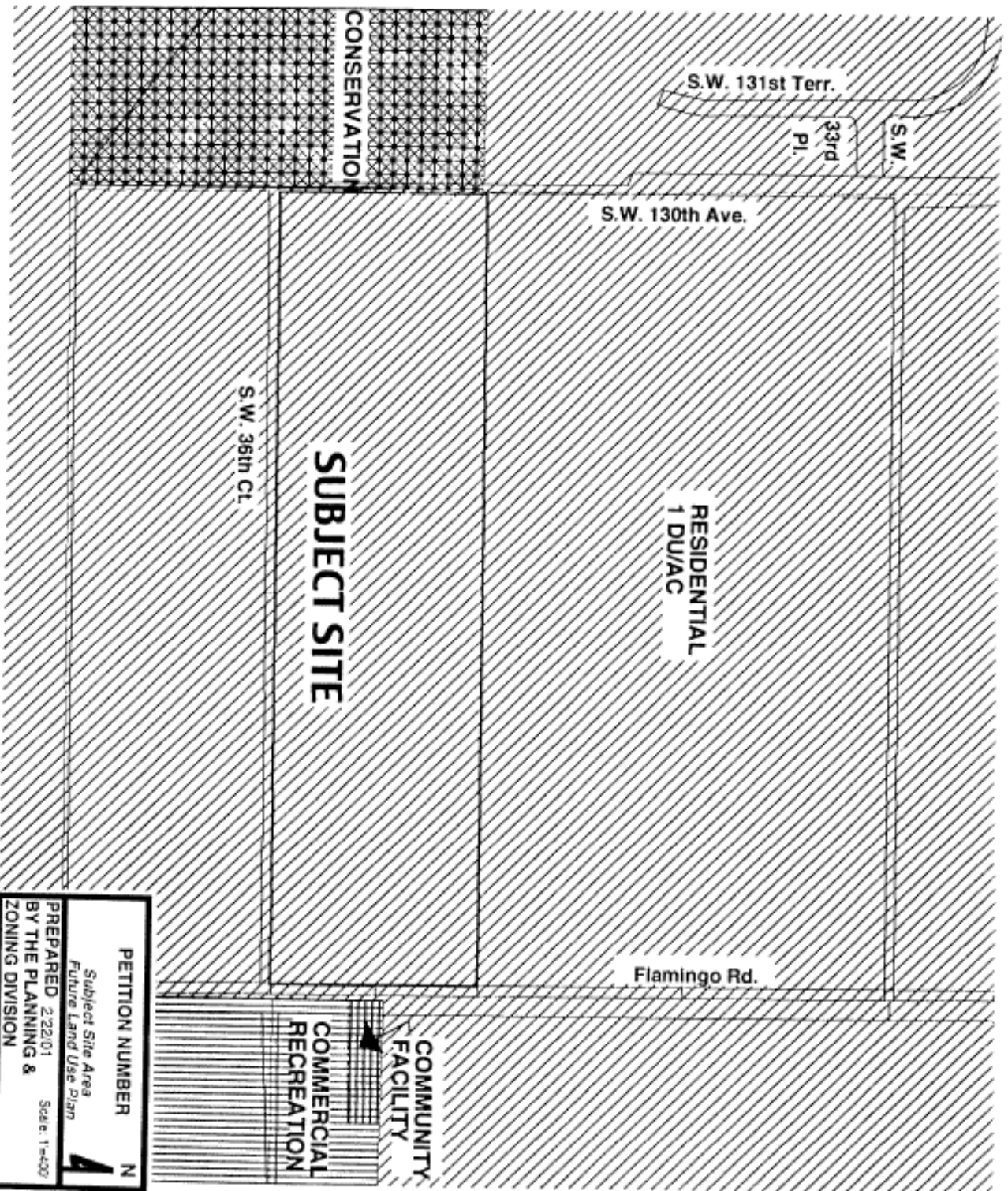
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PETITION NUMBER N
Subject Site Area
Future Land Use Plan
4
PREPARED 2/22/01 Scale: 1"=400'
BY THE PLANNING & ZONING DIVISION

R-1

SW 33rd St

S.W. 1st Trac.

2:54 Depth 2.0m

503 P.1743

A-1

West Bromwich Co.



Figure 10

2415 E. C.

AG

R-1

Walter Dill Scott
(1893-1987)

7-10

RS

SUBJECT SITE

RS

CR

GE

PETITION NUMBER

2

Subject Site Area Zoning Map

1

PREPARED 2/22/01
BY THE PLANNING &
ZONING DIVISION



SINGLE FAMILY RESIDENTIAL

SW 130 AVE

SINGLE FAMILY RESIDENTIAL

SINGLE FAMILY RESIDENTIAL

SINGLE FAMILY RESIDENTIAL

SW 34 PL

SINGLE FAMILY RESIDENTIAL

SUBJECT SITE

SW 36 CT

FLAMINGO ROAD

N
DATE FLOWN
JANUARY 1998
SCALE: nts